



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Karoly, Jr., Esq.
Karoly Law Offices, P.C.
1555 N. 18th Street
Allentown, Pennsylvania 18104

JUN 27 2005

RE: MUR 5504
John Karoly, Jr.

Dear Mr. Karoly:

On August 10, 2004, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on June 21, 2005, found that there is reason to believe you, the President and Treasurer of Karoly Law Offices, P.C., knowingly and willfully violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

29044243371

John Karoly, Jr., Esq
Page 2

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosure
Factual and Legal Analysis

29044243372

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

Respondent: John Karoly, Jr.

MUR: 5504

I. INTRODUCTION

The complaint in this matter alleged that John Karoly, Jr. violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by instructing employees of the Karoly Law Offices, P.C. ("Karoly Law Offices") and other individuals to contribute to Gephardt for President ("Gephardt Committee"), Richard Gephardt's presidential campaign committee. For the reasons set forth below, the Commission finds reason to believe that John Karoly, Jr. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f in connection with an alleged conduit contribution scheme in which reimbursements may have come from the law firm's corporate treasury.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

According to complainant, a former employee of Karoly Law Offices, the Gephardt Committee faxed a notice to John Karoly, Jr. in September 2003 regarding his pledge to raise an additional \$15,000 for the Gephardt Committee. Complainant alleges that it was his understanding that, on a day when the complainant was not in the office, John Karoly, Jr., the managing partner of Karoly Law Offices, "instructed" four employees, Gregory Paglianite, Jayann Brantley, Christina Ligotti and Heather Kovacs, to contribute to the Gephardt Committee, and reimbursed them and certain of their spouses for their contributions. Without saying how, complainant states "I am fully aware that the money was reimbursed from company funds . . . by

29044243373

the Secretary, Jayann Brantley, who was instructed by Mr. Karoly to reimburse the campaign money." Further, complainant alleges that John Karoly, Jr.'s two sons collected checks from the employees and from outside sources. Complainant states he witnessed the employees' reimbursement, and saw two checks from employees written to the Gephardt Committee, including one from Heather Kovacs, Mr. Karoly's secretary. An "Addendum" attached as the last page of the complaint states: "This is to confirm that on June 25, 2004 at approximately 10:00 p.m., I had a conversation with Heather Kovacs during which she confirmed to me that she was in fact reimbursed for the money which is referred to in this complaint."¹

As an attachment to the complaint, complainant provided a list of contributions. The list was apparently derived from public sources, but was annotated with his comments. The list shows contributions by Karoly Law Office employees, their spouses, a law firm client, and John Karoly, Jr.'s family members to the Gephardt Committee in 2003. Those contributions total \$23,000. All of the employee-related contributions were reported as received by the Gephardt Committee on September 30, 2003. Mr. Paglianite, Ms. Brantley and Ms. Kovacs each contributed \$2,000 and Ms. Ligotti contributed \$1,500 to the Gephardt Committee. The spouses of Mr. Paglianite and Ms. Brantley, Maryellen Paglianite and Theodore Brantley, contributed \$2,000 each and Matthew Ligotti, spouse of Christina Ligotti, contributed \$1,500. In his annotations, complainant states that Gregory Paglianite was a paralegal at Karoly Law Offices, and that his and his wife's contributions were reimbursed by one check for \$4,000. His annotations also state that Ms. Ligotti is a medical paralegal at the law firm.

¹ The complaint was filed with the Commission on August 3, 2004. According to complainant's handwritten notation on the first page of the complaint, it appears that the complaint was dated November 17, 2003 and updated on June 25, 2004. It appears that page 7 of the complaint, which is entitled "Addendum," was the updated material.

Complainant's attachment also lists five \$2,000 contributions received by the Gephardt Committee in April 2003, apparently derived from public disclosure records. These include contributions from Eric Dalius, allegedly a law firm client, John Karoly, Jr., and John Karoly, Jr.'s wife, son and brother, Rebecca Karoly, Joshua Karoly, and Peter Karoly, respectively. Complainant states in his attachment that he is not certain whether the April 2003 contributions were also a "scheme."

John Karoly, Jr., on behalf of himself and representing many of the other alleged conduits, responded to the complaint. The response, which Mr. Karoly characterized as a "preliminary filing,"² includes identical affidavits from himself and all of the individual respondents except Peter Karoly. Each is sworn and notarized by respondent Heather Kovacs, except her own, which is not notarized. Each states, in its entirety: "My contribution to the Richard Gephardt campaign was not based upon any reimbursement and I received no reimbursement for same."

In addition, the Commission is in possession of a statement by Peter Karoly in which he describes the circumstances of his and his wife's contributions to the Gephardt Committee, but the statement does not address reimbursement.

B. Analysis

The complaint alleges a corporate reimbursement scheme that, if shown to exist, might constitute knowing and willful violations of 2 U.S.C. §§ 441b(a) and 441f by

² In his response, Mr. Karoly asks for a ten-day extension in which to respond to the complaint. The extension was granted, but no supplement to the original response was forthcoming. A voicemail and letter to Mr. Karoly asking if he had, or intended to file additional materials, received no response.

John Karoly, Jr.³ In his affidavit, Mr. Karoly does not specifically address the allegations that he instructed certain individuals to contribute to the Gephardt Committee and then instructed that their contributions be reimbursed by the law firm.

Some of the complainant's allegations are purportedly based on personal knowledge. In his "Addendum" he states that in a conversation on June 25, 2004, Heather Kovacs confirmed to him that she had been reimbursed. Ms. Kovacs does not address the alleged conversation in her affidavit.⁴ In addition, complainant states that he "witness[ed] the office employees' reimbursement." Further, he states on his annotated list of contributions that the contributions of Gregory and Maryellen Paglianite were reimbursed by a single \$4,000 check.

The affidavits and another statement in the Commission's possession do not completely rebut these allegations. They contain no details concerning the circumstances under which the contributions were made or transmitted. The FEC disclosure base shows that none of the law firm employees or their spouses ever made a contribution to a federal candidate before their September 2003 contributions. While it might be said that the affidavits address the central allegation that the contributions were reimbursed, their terseness leaves room for other possibilities, such as that the funds were advanced, rather than reimbursed.

Most significantly, it would appear that the complainant's very specific allegation about his conversation with Ms. Kovacs, wherein she supposedly admitted reimbursement, and her

³ The knowing and willful standard requires knowledge that one is violating the law. *See Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.

⁴ The "Addendum" in which this allegation is made is the last page of the complaint package. It follows several pages of attachments and would be easy to miss. When we sent a letter to John Karoly, Jr. asking whether a supplemental response had been sent or was forthcoming, we specifically called his attention to this page. As noted, no response was received. *See* footnote 2, *supra*.

statement denying reimbursement cannot both be correct. Thus, there is a basis for investigating whether the contributions at issue were reimbursed.

Moreover, according to the Pennsylvania Secretary of State's office, Karoly Law Offices, based in Allentown, Pennsylvania, was incorporated in Pennsylvania in 1986, so that any contributions it funded would be prohibited pursuant to 2 U.S.C. § 441b(a). Section 441b(a) also prohibits officers of corporations from consenting to corporate contributions. State corporate records indicate that John Karoly, Jr. is the President and Treasurer of Karoly Law Offices. Additionally, the Commission's regulations provide that "[n]o person shall . . . knowingly assist any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii). If there were any reimbursements in this matter, the complaint's allegations indicate they came from the law firm and that John Karoly, Jr., an officer of the law firm, may have knowingly and willfully devised and furthered an alleged conduit scheme and consented to corporate reimbursement of Heather Kovacs' and possibly others' contributions. *See* footnote 3, *supra*.

Therefore, there is reason to believe that John Karoly, Jr. knowingly and willfully violated 2 U.S.C. § 441b(a) and 2 U.S.C. § 441f.

29044243377